

HOW TO OBTAIN AN ORDER OF PROTECTION

You are about to ask for a Temporary Order of Protection as a victim of abuse. This sheet has information to guide you through the legal process and answer some of the questions you may have.

Pursuant to [MCA 40-15-301](#) (jurisdiction), **ANY** court in the State of Montana can hear and issue orders of protection under [MCA 40-15-201](#) (how to obtain). The following is a list of courts in Gallatin County where you can file:

- ▶ **18th Judicial District Court**
- ▶ **Belgrade City Court**
- ▶ **Bozeman Municipal Court**
- ▶ **Gallatin County Justice Court**
- ▶ **Manhattan City Court**
- ▶ **Three Forks City Court**
- ▶ **West Yellowstone City Court**

There is an exception to this rule: when a dissolution of marriage or parenting action involving the parties is pending in District Court, a person may file a petition for an order of protection in any justice, municipal, or city courts only if the District Court judge assigned to that case is unavailable or if the petitioner, to escape further abuse, left the county where the abuse occurred. The petitioner shall provide a copy of relevant district court documents to the justice, municipal, or city courts, along with the petition.

You are the PETITIONER. The Petitioner is the person alleging abuse and asking for protection. The RESPONDENT is the person you are asking the court to protect you from. A Temporary Order of Protection is an order, signed by the Judge, which restricts or prohibits the Respondent from contacting you. Generally, a Temporary Order of Protection is good for 20 days.

If you are a minor, your parent, guardian, or other representative *may* file a petition for a Temporary Order of Protection on your behalf against the Respondent.

You have the right to appear in court on your own to request a Temporary Order of Protection. However, the following resource is available to help you through the process:

HAVEN

24-hour Confidential Crisis Line: 406-586-4111

Legal Advocate: 406-582-2038

www.havenmt.org

When signed by a Judge, a Temporary Order of Protection is valid immediately. After the Judge signs the Order, these are the next steps:

- Your Petition and a copy of the Order must be given to law enforcement for service upon Respondent.
Note: Respondent must have knowledge of the Order for any penalties under [MCA 45-5-626](#) to apply
- There must be a hearing within 20 days. If law enforcement cannot find the Respondent within 20 days, the court will reset the hearing for a new date.
- At the hearing, you must be prepared to explain to the court why you are asking for an Order of Protection, which includes bringing witnesses to the hearing who have knowledge about the facts in your Petition.

Stay in contact with the Clerk of Court for information about your case. The Clerk's number is: **406-582-2191, option #2.**

You should keep copies of your Order with you at all times.
It is a good idea to always carry one in your purse or wallet, as well as having a copy at work and at your children's schools.

ORDER OF PROTECTION

Temporary One Year Amended Order

Case Number: _____
 Court: Gallatin County Justice Court, Bozeman
 Jurisdiction: Gallatin County State: MT

PETITIONER		
First	Middle	Last

PETITIONER IDENTIFIERS		
Date of Birth	Race	Sex

And on behalf of minor family member(s) *(list name, date of birth, sex, race):*

V.

RESPONDENT		
First	Middle	Last

RESPONDENT IDENTIFIERS				
Sex	Race	DOB	HT	WT
Eyes	Hair	Social Security #		
Driver's License #		State	Exp. Date	
Vehicle Make/Model		Color	Plate#	

Respondent's Address:

Distinguishing Features *(tattoos, piercings, gait, etc.)*

CAUTION:
Weapon Involved
Weapon on Property

THE COURT HEREBY FINDS:
 The Petitioner is in danger of harm. That it has jurisdiction over the parties and subject matter. The Court acts without notice to the Respondent (temporary order) or Respondent has been proved with reasonable notice and opportunity to be heard (Permanent order).

THE COURT HEREBY ORDERS:
 That the above named Respondent be restrained from committing further acts of abuse or threats of abuse.
 That the above named Respondent shall stay at least 300 feet away from Petitioner's:
 person home workplace vehicle ___ children(s) school/daycare
 ___ Other: _____

Additional terms of this order are set forth below.

The terms of this order shall be effective through:

DATE ISSUED: _____ **By Judge/Justice** _____

Warning to Respondent:
 This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. section 2262). Federal Law provides penalties for possessing, transporting, shipping or receiving any firearm or ammunition (18 U.S.C. Section 922 (g)(8)). Only the Court can change this order.

Name

Address

City/State/Zip Code

Phone Number

**IN THE _____ COURT,
STATE OF MONTANA, COUNTY OF GALLATIN**

* * * * *

_____)	Case No. CV _____ - _____
Petitioner,)	
)	
-vs-)	
)	
_____)	
Respondent,)	
)	
)	

**PETITION FOR TEMPORARY ORDER OF PROTECTION
AND REQUEST FOR HEARING**

Under oath and as provided by Montana Code Annotated, 40-15-201, I request that the court issue a Temporary Order of Protection against Respondent. I believe I am in danger of harm if the court does not issue a Temporary Order of Protection immediately.

(Check and fill out **all** the spaces below which apply to you)

RESIDENCY

_____ I live in _____ County.

_____ Respondent lives in _____ County.

_____ The abuse or offense occurred in _____ County.

To qualify for a Temporary Order of Protection, you must meet one of the descriptions listed below:

CHECK the description of your relationship with Respondent:

- A. We are married
- B. We were married, but are now separated.
- C. We are divorced.
- D. We are dating or have an ongoing intimate relationship.
- E. We dated or had an ongoing intimate relationship.
- F. We have a child/children together.
- G. I am a family member or a former family member of Respondent.
- H. Other: I am the victim of ___ Stalking ___ Sexual intercourse without consent
 ___ Assault ___ Aggravated assault ___ Assault on a minor by Respondent

CHILDREN (Complete this section *if you have children.*)

Respondent and I are the parents of the following children:

Last Name, First Name	D.O.B.	Race	Sex	Lives with:

The following children live with me but are *not* Respondent's children:

Last Name, First Name	D.O.B.	Race	Sex	Lives with:

OTHER COURT CASES

If there are other court cases between you and the Respondent, list them here. If there is other information not covered in the form that you think the Judge should know, put it here. List other court action(s) between you and Respondent that are current. Describe the type of case and the court where it is filed.

_____ Attorney: I have an attorney. My attorney is _____

_____ Immediate Need: I believe I am in need of an Order of Protection immediately.

**PETITIONER REQUESTS THIS COURT ISSUE A TEMPORARY ORDER OF PROTECTION
IMMEDIATELY TO INCLUDE THE FOLLOWING:**

(Check and fill out *all* sections that are appropriate for you.)

- 1. Respondent is restrained from assaulting, threatening, abusing, harassing, following, or stalking me. Respondent must not harass, annoy, or disturb my peace or do any of those things to the following people (*may include family members, witnesses to the offense, or other victims of the offense*):

- 2. Respondent must stay away from any place Petitioner resides, including residence at:

- 3. Respondent must not telephone, email, write, contact or otherwise communicate, directly **OR** indirectly **OR** through a third party with Petitioner or the following people (*may include family members, witnesses to the offense, or other victims of the offense*):

4. Respondent must not take the following child(ren) out of this county:

5. Respondent shall have NO visitation with the following child(ren):

6. Respondent may have visitation with the following child(ren) as follows:

7. Respondent used or threatened Petitioner with a firearm. Respondent is prohibited from owning, possessing and/or purchasing a firearm.
8. Respondent must not take, hide, sell damage or dispose of Petitioners property.
9. Respondent must give Petitioner possession or use of the following items *(items may include the residence, automobile, and other essential personal property regardless of ownership)*:

10. Petitioner needs a peace officer to accompany him/her to pick up the property listed in Number 9, or Respondent must be accompanied by a peace officer when picking up his/her property or belongings.

11. The Petitioner requests the following to provide for Petitioner's safety and welfare and the Petitioner's family's safety and welfare:

12. Other relief requested:

HEARING

Please set a hearing on this case within twenty (20) days, as required by Montana Code Annotated 40-15-202. The Respondent will then have a chance to be heard and explain why the Order of Protection should not be issued.

I request the Court issue an Order of Protection with the above listed protection after the hearing.

_____, Petitioner

NOTARY SEAL OR CLERKS SIGNATURE

STATE OF MONTANA)
 :SS.
County of Gallatin)

I, _____, Petitioner, after having been sworn, state as follows:

That I have read the above petition, know the contents, and that the statements are true of my own knowledge, except those stated upon information and belief, and I believed those to be true.

DATED this _____ day of _____, 20_____.

_____, Petitioner

SUBSCRIBED and SWORN to before me this _____ day of _____, 20_____.

Notary Public of the State of Montana

Residing at _____

My Commission expires: _____

LAW ENFORCEMENT SERVICE INFORMATION

Confidential

Please provide as much information as you can. **YOU MUST FILL IN ALL THE SHADED AREAS.** If you do not, law enforcement will not serve your order and the form will be returned to the court clerk.

You (remember, you **MUST** fill in all the **shaded** areas)

Last Name		First		Middle Initial	
Date of Birth	Race	Male ()	Social Security No.		
		Female ()			
Home Address		City		State	Zip
Home Phone No.			Message Phone No.		
Work Name and Address				Phone No.	
Name of Relative or Friend Not Living With You				Phone No.	

Other Persons You Wish Protection For (please use additional page, if needed)

Last Name		First		Middle Initial	
Date of Birth	Race	Male ()	Social Security No.		
		Female ()			
Home Address		City		State	Zip
Last Name		First		Middle Initial	
Date of Birth	Race	Male ()	Social Security No.		
		Female ()			
Home Address		City		State	Zip
Last Name		First		Middle Initial	
Date of Birth	Race	Male ()	Social Security No.		
		Female ()			
Home Address		City		State	Zip
Last Name		First		Middle Initial	
Date of Birth	Race	Male ()	Social Security No.		
		Female ()			
Home Address		City		State	Zip

(continued next page)

The Person Against Whom You Are Seeking the Order

Last Name		First		Middle Initial	
Date of Birth	Race	Male () Female ()	Social Security No.		
Home Address		City	State	Zip	
Home Phone No.			Message Phone No.		
Height	Weight	Hair Color	Eye Color		
Describe any tattoos or scars					
Employer		Phone No.		Work Days/Hours	
Address		City	State	Zip	
Name of Relative or Friend			Phone No.		
Make & Model of Car			Year	Color	

Additional Important Information

Has this person been convicted of a crime? If YES, what?	Yes	No	Don't know
Does this person have any weapons?	Yes	No	Don't know
Do you consider this person dangerous?	Yes	No	
Places this person may be found:			

Include written directions or a map if a street address is not available. Without sufficient address information, service of the order may be delayed or may not be possible.

Please use this space for any additional information (i.e. Additional Protected Family Members)